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11 UNITED STATES DISTRICT COURT  
12  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 OAKLAND DIVISION

15 STATE OF CALIFORNIA, STATE OF  
16 COLORADO, STATE OF DELAWARE,  
17 COMMONWEALTH OF MASSACHUSETTS,  
18 STATE OF NEW JERSEY, STATE OF NEW  
19 MEXICO, STATE OF NEW YORK, STATE  
OF OREGON, STATE OF RHODE ISLAND,  
STATE OF VERMONT, and STATE of  
WASHINGTON,

20 Plaintiffs,

21 v.

22 UNITED STATES OF AMERICA, U.S.  
23 ENVIRONMENTAL PROTECTION AGENCY,  
24 LEE ZELDIN, in his official capacity as  
Administrator of the U.S. Environmental  
Protection Agency, and DONALD J. TRUMP, in  
his official capacity as President of the United  
States,

25 Defendants.  
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Case No. 4:25-cv-04966-HSG

**NOTICE OF MOTION AND MOTION  
FOR LEAVE TO FILE BRIEF OF  
AMICUS CURIAE THE CHAMBER OF  
COMMERCE OF THE UNITED STATES  
OF AMERICA IN SUPPORT OF  
MOTION TO DISMISS**

Date: November 20, 2025  
Time: 10:00 a.m. PST  
Courtroom: 2, 4th Floor Oakland Courthouse  
Judge: Hon. Haywood S. Gilliam, Jr.

**NOTICE OF MOTION AND MOTION**

**TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

PLEASE TAKE NOTICE that on November 20, 2025 at 10:00 a.m., or as soon thereafter as the matter may be heard, before the Honorable Haywood S. Gilliam, Jr., United States District Judge, in Courtroom 2, 4th Floor of the Oakland Courthouse, located at 1301 Clay Street, Oakland, California, 94612, the undersigned *amicus curiae*—the Chamber of Commerce of the United States of America (“Chamber”)—will and hereby does move this Court for an order authorizing the submission of the accompanying *amicus* brief supporting the federal Defendants’ Motion to Dismiss the Complaint (Dkt. 118), for the reasons set forth below. A date has not yet been noticed for the Motion to Dismiss. The federal Defendants do not oppose this Motion. The Plaintiff States take no position on this Motion at this time.

The Chamber is the world’s largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files *amicus curiae* briefs in cases, like this one, that raise issues of concern to the nation’s business community.

“It is well-settled that a trial court may, in the exercise of its discretion, permit the filing of an *amicus curiae* brief.” *California v. Bureau of Land Mgmt.*, 612 F. Supp. 3d 925, 951 (N.D. Cal. 2020) (Gilliam, J.) (internal citation omitted) (granting leave to file *amicus* brief). “District courts frequently welcome *amicus* briefs from non-parties concerning legal issues that have potential ramifications beyond the parties directly involved or if the *amicus* has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *NGV Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005) (citation omitted). Both of those considerations counsel in favor of allowing the proposed *amicus* submission here.

First, as discussed at further length in the proposed *amicus* brief, Defendants’ motion to dismiss addresses the significant question whether a federal court can entertain a lawsuit seeking to

1 declare ineffective an Act of Congress on the ground that it was not enacted in compliance with the  
 2 Congressional Review Act (“CRA”). Specifically, Plaintiffs contend that the CRA did not permit  
 3 Congress to disapprove three waivers granted by the Environmental Protection Agency (“EPA”).<sup>1</sup>  
 4 The issues presented, including the question whether a court can block Congress’s exercise of its  
 5 legislative power to disapprove administrative action, are broadly significant. Indeed, any dispute  
 6 over whether a particular administrative action meets the CRA’s definition of a “rule”—no matter  
 7 what agency or what subject matter is involved—could raise the same justiciability questions.  
 8 Likewise, the legal status of the waivers in light of Congress’s disapproval decision, and the legal  
 9 status of the underlying state regulations that in the absence of the waivers are preempted by the  
 10 Clean Air Act, is a significant legal issue. These measures have far-reaching consequences for a  
 11 wide range of U.S. businesses, many of which are members of the Chamber. Indeed, the waivers  
 12 would allow the law of an entire state (plus other states that follow it) to escape federal preemption  
 13 and to simultaneously disrupt and augment what would otherwise be a nationally uniform legal and  
 14 regulatory framework. The importance of the question presented by this motion thus extends far  
 15 “beyond the parties directly involved.” *NGV Gaming*, 355 F. Supp. 2d at 1067.

16 Second, the Chamber possesses considerable legal and policy expertise in this area. It has  
 17 publicly opposed the waivers and supported the corresponding congressional disapproval  
 18 resolutions that are at issue here. *See, e.g.*, Letter from Marty Durbin, Senior Vice President of  
 19 Policy, U.S. Chamber of Commerce to U.S. Environmental Protection Agency (Sept. 16, 2024)<sup>2</sup>;  
 20 Letter from Neil Bradley, Executive Vice President, U.S. Chamber of Commerce to Members of the  
 21 U.S. Senate (May 13, 2025) (“Disapproval of the rules [under the CRA] is essential to ensuring a  
 22 unified national vehicle marketplace that promotes continued progress on fuel economy while  
 23 safeguarding economic growth and consumer interests.”).<sup>3</sup> More generally, the Chamber is no

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 25 <sup>1</sup> These three waivers were the Advanced Clean Cars II (90 Fed. Reg. 642 (Jan. 6, 2025)), Advanced  
 26 Clean Trucks (88 Fed. Reg. 20,688 (Apr. 6, 2023)), and the “Omnibus” Low NOx programs (90  
 27 Fed. Reg. 643 (Jan. 6, 2025)).

28 <sup>2</sup> Available at [https://www.uschamber.com/assets/documents/CA-ACF-Waiver-FINAL\\_-Sep-2024.pdf](https://www.uschamber.com/assets/documents/CA-ACF-Waiver-FINAL_-Sep-2024.pdf).

<sup>3</sup> Available at [https://www.uschamber.com/assets/documents/250513\\_Hill\\_CRA-EPA-Preemption\\_Waivers\\_Senate-FINAL.pdf](https://www.uschamber.com/assets/documents/250513_Hill_CRA-EPA-Preemption_Waivers_Senate-FINAL.pdf).

1 stranger to the CRA. It has supported a number of congressional decisions to disapprove  
 2 administrative action by joint resolution using the procedures set out in the CRA. *See, e.g., Chad*  
 3 *Whiteman*, U.S. Chamber of Commerce, *Chamber Is Keeping the Focus on Re-Balancing*  
 4 *Regulations through CRAs* (Apr. 25, 2025)<sup>4</sup> (calling for disapproval of the EPA actions at issue in  
 5 this litigation, as well as actions by the Consumer Financial Protection Bureau, the Department of  
 6 Energy, and the Federal Trade Commission); Thomas J. Donohue, U.S. Chamber of Commerce,  
 7 *Little-Known Law Makes a Big Difference* (May 22, 2017)<sup>5</sup> (summarizing CRA disapproval  
 8 resolutions enacted by Congress in 2017 with the Chamber’s support). The Chamber has also  
 9 participated as a party or *amicus* in a number of judicial challenges to EPA waiver decisions—and  
 10 would likely need to participate in more such challenges if Congress were hindered in disapproving  
 11 waiver decisions under the CRA. *See, e.g., Western States Trucking Ass’n, Inc. v. EPA*, No. 23-  
 12 1143, 2023 WL 7548089 (D.C. Cir. Nov. 13, 2023) (*amicus* brief); *Chamber of Commerce of the*  
 13 *U.S. v. EPA*, 642 F.3d 192 (D.C. Cir. 2011) (decision in case where Chamber was petitioner).

14 Finally, the proposed brief is being tendered seven days after the motion to dismiss that it  
 15 supports, *cf.* Fed. R. App. P. 29, and is less than fifteen pages. No counsel for any party authored  
 16 this brief in whole or in part, and no entity or person, aside from *amicus curiae*, its members, or its  
 17 counsel, made any monetary contribution intended to fund the preparation or submission of this  
 18 brief. And because Plaintiffs’ opposition to Defendants’ motions to dismiss is not due until October  
 19 3, 2025, Plaintiffs will not be prejudiced by this filing.

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27 <sup>4</sup> Available at <https://www.uschamber.com/regulations/chamber-is-keeping-the-focus-on-re-balancing-regulations-through-cras>.

28 <sup>5</sup> Available at <https://www.uschamber.com/regulations/little-known-law-makes-big-difference>.

1 For the foregoing reasons, the Chamber respectfully requests that this Court grant leave to  
2 file the proposed *amicus* brief.

3  
4 Respectfully submitted,

5 Dated: September 26, 2025

By: /s/ Andrew Kim

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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Northern District of California by using the CM/ECF system on **September 26, 2025**. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct. Executed on **September 26, 2025**.

*/s/ Andrew Kim*

ANDREW KIM